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EXAMINER				
SCHMIDT, KARI L				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,214

Applicant(s)

NAKANO ET AL.

Examiner

KARI L. SCHMIDT

Art Unit

2439

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-59 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 43-59 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09 April 2009 has been entered.

Notice to Applicant

This communication is in response to the amendment filed on 04/09/2009. Claims 43-59 are pending. Claims 1-42 have been canceled. Claims 59 have been newly added. Further the examiner notes the 35 U.S.C. 101 rejection of claims 56-57 have been withdrawn.

Response to Arguments

The examiner has established new grounds for claims 43-59 under 35 U.S.C. 112, first paragraph. Therefore these arguments are moot.

The applicant argues the 35 U.S.C. 112, second paragraph rejection. The examiner will maintain the rejection with respect to the term "existence confirmation unit" as it is still a relative term that is unknown to one of ordinary skill in the art due to

the fact that the term is not defined by the claim and further the specification does not provide a standard for ascertaining the requisite degree of the term, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention and therefore the examiner will interpret the term "existence information unit" to mean a "unit" that has the ability to judge if a particular identification information is stored on a recorded medium.

The applicant argues the 35 U.S.C. 103 rejection with respect to Ansell in view of Moribe (and Lotspiech) for failing to disclose "an existence confirmation unit that confirms whether or not a piece of the media key data exists on a recording medium and a writing unit that, when the existence confirmation unit confirms that the media key data does not exist on the recording medium writes the encrypted content, the encrypted content key, and the piece of media key data stored in the storage unit into the rewritable area of the recording medium". The examiner disagrees. The examiner notes the combination of Ansell in view of Moribe does indeed disclose the claimed invention. The examiner notes Ansell discloses a writing unit operable to record the encrypted content, the encrypted content key, and the piece of media key data stored in the storage unit into the rewritable area of the recording medium (see at least, col. 5, lines 46-col. 6, lines 65). The examiner has sought to combine Moribe to disclose "an existence confirmation unit" that confirm whether data exists on a medium and whether a writing unit can write on the medium (see at least, col. 10, lines 19-55). The examiner has interpreted that a Moribe discloses that a reproduction apparatus can judge whether or not key recording area information is recorded on a medium (e.g. whether a given

specific set of data (e.g. key information, etc)). Further based on the judging the of the key recording area information the reproduction apparatus will be reproduced (e.g. written if judged)). The examiner therefore the notes that one of ordinary skill in the art at the time the invention was made would have had the knowledge based on the motivation provided and the broadest interpretation of the references to combine Ansell to Moribe to disclosed the claimed invention. Further the examiner notes the given elements of both Ansell and Moribe could have been combined in order to achieve a predictable result. Therefore the examiner does not find this argument persuasive.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 43-59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner notes that the claims recite "an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium..." However as noted by the applicant, the specification relates to a comparing unit that checks for the existence of key revocation data files. The examiner notes the recitation within the specification differs greatly with

respect to what the applicant is claiming. The examiner notes there is no existence confirmation unit and further no media key data. Therefore the examiner notes that these features are not described or conveyed at the time the application was filed therefore the examiner notes the applicant did not possess the claimed invention as now claimed. Therefore, the examiner rejects claims 43-59 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 59 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner notes that the claims recite "media data key... not newer... does not update..." The examiner has not found the claimed features within the applicant's specification. Therefore the examiner notes that these features are not described or conveyed at the time the application was filed therefore the examiner notes the applicant did not possess the claimed invention as now claimed. Therefore, the examiner rejects claims 43-59 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 43-59 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 43-59

The examiner notes that "existence confirmation unit" is a relative term and the specification does not provide a standard for ascertaining the requisite degree. Further the examiner will interpret an "existence confirmation unit" to be the ability to judge if particular identification information is recorded on the medium.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 43-45, 51-52, and 55-58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ansell et al. (US 6,367,019 B1) in view of Moribe et al. (US 5,886,979).

Claim 43 and 55-58

Ansell discloses a recording apparatus for recording encrypted content onto a recording

medium having a read-only unrewritable area and a rewritable area to which data can be recorded and from which data can be read (see at least, col. 6, lines 8-28: the examiner notes "a serial number which cannot be overwritten" is interpreted to be a read-only unrewritable area of a compact disc or dvd (see col. 5, lines 20-46) which contains a rewritable area to store a number of SPTs (e.g. digital content) (see col. 5, lines 20-46) and col. 7, line 65-col. 8, line 5 and FIG. 1 the examiner notes the recording apparatus (player 110)), the recording apparatus being one component of a digital work protection system including a plurality of reproduction apparatuses that each attempt to decrypt the encrypted content recorded onto the recording medium (see at least, col. 7, line 65-col. 8, line 5 and FIG. 1 the examiner notes the recording apparatus (player 110) and the reproduction apparatus (portable player 150) which are used to decrypt the encrypted SPTs), the recording apparatus comprising: a storing unit operable to store a piece of media key data that includes a plurality of encrypted media keys, each encrypted media key being generated (i) for a respective unrevoked reproduction apparatus of a plurality of unrevoked reproduction apparatuses and (ii) by encrypting a media key based on a device key assigned to the respective unrevoked reproduction apparatus (see at least, col. 6, lines 29-50 and col. 10, lines 29-55: the examiner notes the reproduction apparatus (player 110) has the ability to read from a storage unit (see col. 6, lines 48-50) that is operable to store (e.g. found in the portable player) a plurality of unrevoked encrypted media key (e.g. storage key) (see FIG. 5) which is encrypted by the portable players public key (e.g. device key) (see col. 10, lines 29-40)); a content encrypting unit operable to encrypt the content, based on a content key, to generate the

encrypted content, the content being a piece of digital data (see at least, col. 7, lines 7, lines 38-48: the examiner notes the media master key (e.g. content key) encrypts the digital content (e.g. SPTs)); a key encrypting unit operable to generate an encrypted content key by encrypting the content key based on a media key obtained from the piece of media key data stored in the storage unit (see at least, col. 7, lines 14-48: the examiner notes the content key (e.g. media key) is encrypted by the media key (e.g. storage key)); and a writing unit operable to record the encrypted content, the encrypted content key, and the piece of media key data stored in the storage unit onto the rewritable area of the recording medium, the encrypted content, the encrypted content key, and the piece of media key data being recorded onto the rewritable area of the recording medium (see at least, col. 5, lines 46-col. 6, lines 65: the examiner notes the encrypted content is written to the disc (see col. 5, lines 19-45) and further the encrypted content key (e.g. encrypted media key) is written to the disc as found in the header and a piece of the media key data (e.g. storage key identification field) is written to disc as found in the header).

Ansell fails to disclose an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium.

However Moribe discloses an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium (see at least, col. 10, lines 19-33: the examiner notes judging whether or not

identification information is recorded into the medium and proceeding with recording if it not recorded (step s22)). Further the examiner interprets that the Moribe disclosure would include if no media key is present allowing for data (e.g. encrypted content, encrypted content key, and piece of media key) to be recorded to the medium if no identification information is found (see col. 10, lines 19-33).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ansell to include an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium as taught by Moribe. One of ordinary skill in the art would have been motivated to combine the teachings in order to prevent the analysis and information copied, illegally, from a genuine product to be used in creating an illegal copy (see at least, Moribe, col. 2, lines 17-24).

Claim 44

Ansell discloses wherein the key encrypting unit encrypts the content key based on the media key obtained from the piece of media key data stored in the storage unit, to generate the encrypted content key (see at least, col. 7, lines 14-48: the examiner notes the content key (e.g. media key) is encrypted by the media key (e.g. storage key)) and wherein the writing unit records the encrypted content, the encrypted content key and the piece of media key data stored in the storage unit to the rewritable area of the recording medium (see at least, col. 5, lines 46-col. 6, lines 65: the examiner notes the

encrypted content is written to the disc (see col. 5, lines 19-45) and further the encrypted content key (e.g. encrypted media key) is written to the disc as found in the header and a piece of the media key data (e.g. storage key identification field) is written to disc as found in the header).

Ansell fails to disclose the existence confirmation unit confirms whether or not (i) a piece of media key data having a generation that is the same as a generation of the piece of media key data stored in the storage unit, or (ii) a piece of media key data having a generation that is different from the generation of the piece of media key data stored in the storage unit, exists on the recording medium.

However Moribe discloses an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium (see at least, col. 10, lines 19-33: the examiner notes judging whether or not identification information is recorded into the medium and proceeding with recording if it not recorded (step s22)). Further the examiner interprets that the Moribe disclosure would include confirming that no media key exists on the recorded medium, and therefore would read on confirms whether or not (i) a piece of media key data having a generation that is the same as a generation of the piece of media key data stored in the storage unit, or (ii) a piece of media key data having a generation that is different from the generation of the piece of media key data stored in the storage unit, exists on the recording medium.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ansell to include an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium as taught by Moribe. One of ordinary skill in the art would have been motivated to combine the teachings in order to prevent the analysis and information copied, illegally, from a genuine product to be used in creating an illegal copy (see at least, Moribe, col. 2, lines 17-24).

Claim 45

Ansell fails to disclose wherein the existence confirmation unit confirms whether or not either of (i) the piece of media key data having the generation that is the same as the generation of the piece of media key data stored in the storage unit and (ii) the piece of media key data having the generation that is different from the generation of the piece of media key data stored in the storage unit, exist in the rewritable area of the recording medium.

However Moribe discloses an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium (see at least, col. 10, lines 19-33: the examiner notes judging whether or not identification information is recorded into the medium and proceeding with recording if it not recorded (step s22)). Further the examiner interprets that the Moribe disclosure

would include confirming that no media key exists on the recorded medium, and therefore would read on confirms whether or not (i) the piece of media key data having the generation that is the same as the generation of the piece of media key data stored in the storage unit and (ii) the piece of media key data having the generation that is different from the generation of the piece of media key data stored in the storage unit, exist in the rewritable area of the recording medium

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ansell to include an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium, the confirmation being made when content is to be recorded onto the recording medium as taught by Moribe. One of ordinary skill in the art would have been motivated to combine the teachings in order to prevent the analysis and information copied, illegally, from a genuine product to be used in creating an illegal copy (see at least, Moribe, col. 2, lines 17-24).

Claim 51

Ansell discloses wherein the piece of media key data stored in the storing unit further includes a first data identifier that identifies the piece of media key data stored in the storing unit (see at least, col. 5, lines 46-col. 6, lines 65: the examiner notes a piece of the media key data (e.g. storage key identification field) is written to disc as found in the header)., wherein the writing unit (i) records the first data identifier and the encrypted content to the rewritable area of the recording medium such that the first data identifier

and the encrypted content are in correspondence, and (ii) records the piece of media key data including the first data identifier to the rewritable area of the recording medium (see at least, col. 5, lines 46-col. 6, lines 65: the examiner notes the header file shows the correspondence of the data identifier and the encrypted content on the medium).

Claim 52

Ansell discloses wherein the recording medium includes another piece of media key data including another set of encrypted media keys, each encrypted media key of the another set of encrypted media keys being generated (i) for a respective unrevoked reproduction apparatus of a plurality of unrevoked reproduction apparatuses and (ii) by encrypting a media key based on a device key assigned to the respective unrevoked reproduction apparatus, wherein the another piece of media key data includes a second data identifier that identifies the another piece of media key data recorded on the recording medium, and wherein the recording apparatus further includes an assigning unit operable to assign the first data identifier, which is different from the second data identifier, to the piece of media key data stored in the storing unit (see at least, FIG 4: the examiner notes multiple bindings can exist therefore be played on more than on player (e.g. portable player and an external player)).

Claim 46-50 and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansell et al. (US 6,367,019 B1) in view of Moribe et al. (US 5,886,979) as applied to

claim 44 and other claims as noted above, and further in view of Lotspiech (US 6,609,116 B1).

Claim 46 and 47

The examiner notes that Ansell in view of Moribe disclose existence confirmation unit confirms that either of (i) the piece of media key data having the generation that is the same as the generation of the piece of media key data stored in the storage unit and (ii) the piece of media key data having the generation that is different from the generation of the piece of media key data stored in the storage unit, exist on the recording medium (as noted in claim 44 above) however Ansell in view of Moribe fails to disclose a comparing unit operable to compare the piece of media key data recorded on the recording medium with the piece of media key data stored in the storage unit to judge which of the piece of the media key data stored in the recording medium and the piece of media key data stored in the storage unit is newer and an updating unit operable to update the piece of media key data stored in the storage unit and when the comparing unit judges that the piece of media key data recorded on the recording medium is newer, the updating unit reads the piece of media key data from the recording medium and updates the piece of media data stored in the storage unit with the piece of media key data read from the recording medium.

However Lotspiech discloses comparing unit operable to compare the piece of media key data recorded on the recording medium with the piece of media key data stored in the storage unit to judge which of the piece of the media key data stored in the

recording medium and the piece of media key data stored in the storage unit is newer (see at least, col. 5, lines 26-34: the examiner notes the use of levels and age for seeing if a key is newer) and an updating unit operable to update the piece of media key data stored in the storage unit and when the comparing unit judges that the piece of media key data recorded on the recording medium is newer (see at least, col. 6, lines 35-55: the examiner notes the use of the "newer media" key to encrypt data when it is judged whose key level is higher which written to the media (e.g. player-recorder)), the updating unit reads the piece of media key data from the recording medium and updates the piece of media data stored in the storage unit with the piece of media key data read from the recording medium (see at least, col. 6, lines 35-55: the examiner notes the use of the "newer media" key to encrypt data when it is judged whose key level is higher which written to the media (e.g. player-recorder)). Further the examiner notes if it is judged older it has no effect on whether Ansell in view of Moribe would still perform encrypting the content key with the media key and write the encrypted content key onto the medium, therefore the examiner notes Lotspiech discloses a comparison and Ansell in view of Moribe discloses encrypting and writing (as found in claim 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ansell in view of Moribe to include a comparing unit operable to compare the piece of media key data recorded on the recording medium with the piece of media key data stored in the storage unit to judge which of the piece of the media key data stored in the recording medium and the piece of media key data stored in the storage unit is newer and an updating unit operable to

update the piece of media key data stored in the storage unit and when the comparing unit judges that the piece of media key data recorded on the recording medium is newer, the updating unit reads the piece of media key data from the recording medium and updates the piece of media data stored in the storage unit with the piece of media key data read from the recording medium as taught by Lotspiech. One of ordinary skill in the art would have been motivated to combine the teachings to account for the presence of compromised or pirate devices and protect the data on medium by utilizing new media keys (see at least, Lotspiech, col. 1, lines 53-58).

Claim 48

Ansell discloses further comprising: a reading unit operable to read the encrypted content key from the rewritable area of the recording medium see at least, col. 7, lines 14-47); and a content key decrypting unit operable to decrypt the read encrypted content key based on the media key obtained from the piece of media key data recorded to the recording medium, to generate the content key, and wherein the key encrypting unit further encrypts the content key generated by the content key decrypting unit, based on the media key obtained from the piece of media key data stored in the storage unit, to generate the encrypted content key, and wherein the writing unit further records the encrypted content key to the rewritable area of the recording medium (see at least, col. 7, lines 14-47: the examiner notes the transfer from an external player to a portable player would require encrypting decrypting and encrypting of the media key).

Claim 49 and 53

Ansell in view of Moribe fails to disclose wherein the piece of media key data stored in the storing unit includes a first piece of version information indicating the generation of the piece of media key data stored in the storing unit, wherein the piece of media key data recorded on the recording medium includes a second piece of version information indicating the generation of the piece of media key data recorded on the recording medium, and wherein the comparing unit judges which of, (i) the piece of media key data stored in the storing unit and (ii) the piece of media key data recorded on the recording medium, is newer by comparing the first piece of version information with the second piece of version information.

However Lotspiech discloses wherein the piece of media key data stored in the storing unit includes a first piece of version information indicating the generation of the piece of media key data stored in the storing unit, wherein the piece of media key data recorded on the recording medium includes a second piece of version information indicating the generation of the piece of media key data recorded on the recording medium (see at least, col. 5, lines 26-34: the examiner notes the use of levels to represent the version information of the media key), and wherein the comparing unit judges which of, (i) the piece of media key data stored in the storing unit and (ii) the piece of media key data recorded on the recording medium, is newer by comparing the first piece of version information with the second piece of version information (see at least, col. 6, lines 35-46: the examiner notes the use of levels (e.g. version information) to judge if the media key is newer)..

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ansell in view of Moribe to include wherein the piece of media key data stored in the storing unit includes a first piece of version information indicating the generation of the piece of media key data stored in the storing unit, wherein the piece of media key data recorded on the recording medium includes a second piece of version information indicating the generation of the piece of media key data recorded on the recording medium, and wherein the comparing unit judges which of, (i) the piece of media key data stored in the storing unit and (ii) the piece of media key data recorded on the recording medium, is newer by comparing the first piece of version information with the second piece of version information as taught by Lotspiech. One of ordinary skill in the art would have been motivated to combine the teachings to account for the presence of compromised or pirate devices and protect the data on medium by utilizing new media keys (see at least, Lotspiech, col. 1, lines 53-58).

Claim 50 and 54

Ansell in view of Moribe fails to disclose wherein the piece of media key data stored in the storing unit includes a first piece of time information indicating a time at which the piece of media key data stored in the storing unit was generated, wherein the piece of media key data recorded on the recording medium includes a second piece of time information indicating a time at which the piece of media key data recorded on the recording medium was generated, and the comparing unit judges which of, (i) the piece of media key data stored in the storing unit and (ii) the piece of media key data recorded

on the recording medium, is newer by comparing the first piece of time information with the second piece of time information.

However Lotspiech discloses wherein the piece of media key data stored in the storing unit includes a first piece of time information indicating a time at which the piece of media key data stored in the storing unit was generated, wherein the piece of media key data recorded on the recording medium includes a second piece of time information indicating a time at which the piece of media key data recorded on the recording medium was generated (see at least, col. 5, lines 26-34: the examiner notes a "32" bit unit that represents the age (date and time) of a media key), and the comparing unit judges which of, (i) the piece of media key data stored in the storing unit and (ii) the piece of media key data recorded on the recording medium, is newer by comparing the first piece of time information with the second piece of time information (see at least, col. 6, lines 35-46: the examiner notes the use of age judge if the key is newer).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Ansell in view of Moribe to include wherein the piece of media key data stored in the storing unit includes a first piece of time information indicating a time at which the piece of media key data stored in the storing unit was generated, wherein the piece of media key data recorded on the recording medium includes a second piece of time information indicating a time at which the piece of media key data recorded on the recording medium was generated, and the comparing unit judges which of, (i) the piece of media key data stored in the storing unit and (ii) the piece of media key data recorded on the recording medium, is newer by

comparing the first piece of time information with the second piece of time information as taught by Lotspiech. One of ordinary skill in the art would have been motivated to combine the teachings to account for the presence of compromised or pirate devices and protect the data on medium by utilizing new media keys (see at least, Lotspiech, col. 1, lines 53-58).

Claim 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansell et al. (US 6,367,019 B1) in view of Moribe et al. (US 5,886,979) as applied to claim 44 above, and further in view of Examiner's Official Notice.

Claim 59

Ansell in view Moribe disclose an existence confirmation unit operable to confirm whether or not the piece of media key data exists on the recording medium (see claim 1). *Further the examiner notes based on the 112, first and second rejections the examiner has interpreted it to be a unit that can judge if data exists.*

Ansell in view of Moribe fail to disclose a comparing unit judges that the piece of media key data recorded on the recording medium is not newer, the updating unit does not read the piece of media key data from the recording medium and does not update the piece of media data stored in the storage unit with the piece of media key data read from the recording medium.

The examiner takes Official Notice that it is old and well known in the arts to have a comparing unit that can compare data to see if the data contains a given time stamp

and bases a decision to update based on the given time stamp (e.g. the examiner notes during an update process if a configuration file is not the newest file (e.g. driver) the software may not be able to update until the file is replaced with a newer version).

It would have been obvious to one of ordinary skill at the time the invention was made to modify the teachings of Ansell in view of Moribe to include the features as taught by the Examiner's Official Notice for the purpose of making sure that a given piece of software will only be installed if a system and its files can support it.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KARI L. SCHMIDT whose telephone number is (571) 270-1385. The examiner can normally be reached on Monday - Friday: 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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